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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2090

ANGIE MARIE JOHNSON
17521 Eel River Road
Potter Valley, CA 95469

A C C U S A T I O N

Respiratory Care Practitioner License No. 23652

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 23, 2004, the Respiratory Care Board issued Respiratory Care Practitioner License Number 23652 to Angie Marie Johnson (Respondent). The Respiratory Care Practitioner License expired on July 13, 2006, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 3710 of the Code states: “The Respiratory Care Board of
2 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
3 8.3, the Respiratory Care Practice Act].”

4 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
5 and revoke licenses to practice respiratory care as provided in this chapter.”

6 6. Section 118(b) of the Code states:

7 “The suspension, expiration, or forfeiture by operation of law of a license issued
8 by a board... shall not, during any period in which it may be renewed... deprive the board
9 of its authority to institute or continue a disciplinary proceeding against the licensee upon
10 any ground provided by law or to enter an order suspending or revoking the license or
11 otherwise taking disciplinary action against the licensee on any such ground.”

12 7. Section 3750 of the Code states:

13 “The board may order the denial, suspension or revocation of, or the imposition of
14 probationary conditions upon, a license issued under this chapter, for any of the following
15 causes:

16 “(d) Conviction of a crime that substantially relates to the qualifications,
17 functions, or duties of a respiratory care practitioner. The record of conviction or a
18 certified copy thereof shall be conclusive evidence of the conviction.”

19 “(g) Conviction of a violation of any of the provisions of this chapter or of any
20 provision of Division 2 (commencing with Section 500), or violating, or attempting to
21 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
22 violate any provision or term of this chapter or of any provision of Division 2
23 (commencing with Section 500).”

24 8. Section 3750.5 of the Code states:

25 “In addition to any other grounds specified in this chapter, the board may deny,
26 suspend, or revoke the license of any applicant or license holder who has done any of the
27 following:

28 ///

1 "(a) Obtained or possessed in violation of law, or except as directed by a licensed
2 physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or
3 administered to another, any controlled substances as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2
5 (commencing with section 4015) of Chapter 9."

6 "(e) Been committed or confined by a court of competent jurisdiction for
7 intemperate use of or addiction to the use of any of the substances described in subdivisions (a),
8 (b), and (c) in which event the court order of commitment or confinement is prima facie evidence
9 of that commitment or confinement."

10 9. Section 3752 of the Code states:

11 "A plea or verdict of guilty or a conviction following a plea of nolo contendere
12 made to a charge of any offense which substantially relates to the qualifications, functions, or
13 duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this
14 article. The board shall order the license suspended or revoked, or may decline to issue a license,
15 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
16 or when an order granting probation is made suspending the imposition of sentence, irrespective
17 of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw
18 his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
19 dismissing the accusation, information, or indictment."

20 10. California Code of Regulations, title 16, section 1399.370, states:

21 "For the purposes of denial, suspension, or revocation of a license, a crime or act
22 shall be considered to be substantially related to the qualifications, functions or duties of
23 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
24 perform the functions authorized by his or her license or in a manner inconsistent with the
25 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
26 those involving the following:

27 "(a) Violating or attempting to violate, directly or indirectly, or assisting or
28 abetting the violation of or conspiring to violate any provision or term of the Act."

1 COST RECOVERY

2 11. Section 3753.5, subdivision (a) of the Code states:

3 "In any order issued in resolution of a disciplinary proceeding before the board,
4 the board or the administrative law judge may direct any practitioner or applicant found to have
5 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
6 investigation and prosecution of the case."

7 12. Section 3753.7 of the Code states:

8 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
9 include attorney general or other prosecuting attorney fees, expert witness fees, and other
10 administrative, filing, and service fees."

11 13. Section 3753.1 of the Code states:

12 "(a) An administrative disciplinary decision imposing terms of probation may
13 include, among other things, a requirement that the licensee-probationer pay the monetary costs
14 associated with monitoring the probation."

15 FIRST CAUSE FOR DISCIPLINE

16 (Conviction)

17 14. Respondent is subject to disciplinary action under sections 3750(d) and
18 3752 [substantially related conviction], 3750(g), 3750.5(a) [possession of a controlled
19 substance], and CCR 1399.370(a). The circumstances are as follows:

20 15. On or about August 30, 2005, at about 8:30 a.m., Mendocino County
21 Deputy Sheriff Clint Byrnes was dispatched to the parking lot of the Sheriff's Central Station
22 regarding a report of a possibly mentally unstable female with a gun. T.J. stated that his wife,
23 later identified as respondent, followed him from their house to his work and then to the Sheriff's
24 office. T.J. stated that his wife was acting crazy, uses drugs, and that he knew she owned a 9 mm
25 handgun. Deputy Byrnes interviewed respondent, and she was insistent that her husband open
26 the back of his van, and was not cooperative in answering Deputy Byrnes' questions. She stated
27 that she was not using drugs and was trying to "get clean," and that the last time she used drugs
28 was about three weeks ago. She then stated that she last used drugs three days ago. The officer's

1 evaluation to determine if she was under the influence of a controlled substance was negative.

2 16. Deputy Kaiser arrived and saw live ammunition on the floorboard of
3 respondent's vehicle. She stated that she lives on a 100 acre property, and had been loading the
4 clips to use the gun for target practice. Respondent refused to consent to a search of the vehicle.
5 Her husband, as registered owner of the vehicle, gave permission to search it. Deputy Kaiser
6 searched the vehicle, and in her purse, he found a Smith and Wesson 9 mm semi-automatic
7 handgun, two loaded magazines each with seven rounds of ammunition, two boxes containing
8 100 rounds each of Winchester 9 mm Luger ammunition, and a tin box containing concentrated
9 cannabis, weighing 1.0 gram.

10 17. Deputy Byrnes arrested respondent for violating Health & Safety code
11 section 11357(a), possession of concentrated cannabis; Penal Code section 12025(a), carrying a
12 concealed weapon in vehicle; and Penal Code section 12031(a), carrying a loaded firearm in a
13 vehicle.

14 18. On or about August 31, 2005, a criminal felony complaint titled *People of*
15 *the State of California vs. Angela Marie Johnson*, case no. MCUK-CRCR-05-67027-02 was filed
16 in Superior Court, Mendocino County. Count One alleged a felony violation of Health & Safety
17 code section 11357(a), possession of concentrated cannabis; Count Two alleged a felony
18 violation of Penal Code section 12025(a), carrying a concealed weapon in vehicle; Count Three
19 alleged a felony violation of Penal Code section 12031(a), carrying a loaded firearm in a vehicle.

20 19. On or about September 1, 2005, the District Attorney's motion to amend
21 Counts 2 and 3 to misdemeanors was granted. On that date, respondent entered a plea of not
22 guilty to all counts. On November 9, 2005, respondent entered a plea of guilty to Count 2, a
23 misdemeanor violation of Penal Code section 12025(a), carrying a concealed weapon in vehicle.
24 On motion of the District Attorney, the Court ordered the remaining counts dismissed.
25 Respondent was placed in Deferred Entry of Judgment (DEJ) for six months.

26 20. Therefore, respondent's license is subject to discipline because she was
27 convicted of a substantially related crime in violation of code sections 3750(d), 3750(g), CCR
28 1399.370(a) and 3752, she was in possession of a controlled substance in violation of code

1 section 3750.5(a), and she was placed into a deferred entry of judgment program in violation of
2 3750.5(e).

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

6 1. Revoking or suspending Respiratory Care Practitioner License Number
7 23652, issued to Angie Marie Johnson.

8 2. Ordering Angie Marie Johnson to pay the Respiratory Care Board the
9 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
10 probation monitoring;

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: July 10, 2007

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15 Original signed by Liane Zimmerman for:
16 STEPHANIE NUNEZ
17 Executive Officer
18 Respiratory Care Board of California
19 Department of Consumer Affairs
20 State of California
21 Complainant
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